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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,996

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Werner Boltshauser

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EXAMINER

NGUYEN, JIMMY T

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

01/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,996	<b>Applicant(s)</b> BOLTSHAUSER, WERNER	
	<b>Examiner</b> JIMMY T. NGUYEN	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12/23/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 13-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/13/06, 10/30/06, 10/31/06</u>                               | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I (claims 1-12) in the reply filed on December 234, 2008 is acknowledged. The traversal is on the ground(s) that the restriction is improper because there is no single general inventive concept. With respect to Applicant's assertion, this argument is not found persuasive because Group I discloses a method for producing a can body involving welding of a sealing seam, while Group II discloses a method for producing a can body involving reshaping and cutting a can jacket, Group III drawn to a can body of an aerosol can and a closure member having a pull tab, Group IV discloses a device for producing a can body wherein at least one closure member is arranged with a different joint on the closed can jacket, and Group V discloses a device for producing jacket section . Each of the Groups discloses different methods and devices, and thus the searches are differing. Accordingly, the single general inventive concept has been established.

The requirement is still deemed proper and is therefore made FINAL.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

Receipt is acknowledged of Information Disclosure Statements (I.D.S.), filed July 13, 2006; October 30, 2006; and October 31, 2006, which I.D.S. have been placed of record in the file. The initialed, signed and dated copies of the form PTO-1449 are attached to this Office action.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hose element and pressurized liquid as claimed in claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 4, there is no antecedent basis for the limitation, “the additional joints” in the claim.

Regarding claim 1, line 9, there is no antecedent basis for the limitation, “the direction” in the claim.

Regarding claim 2, lines 1-2, there is no antecedent basis for the limitation, “the first connection” in the claim.

Regarding claim 9, line 3, there is no antecedent basis for the limitation, “the melting step” in the claim.

Regarding claim 10, lines 2-3, there is no antecedent basis for the limitation, “the sealing bulge” in the claim as it is depended upon claim 1. For the purpose of examination, claim 10 is treated as it is depended upon claim 9.

All claims should be carefully reviewed for clarity and definiteness.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5, 7 and 11-12, as best understood, rejected under 35 U.S.C. 103(a) as being unpatentable over Hauser et al. (hereinafter “Hauser”) (EP 0,200,098 A2) in view of Morris (US 3,337,944).**

Hauser discloses a method for producing a can body comprising: pushing a can jacket (8) and a closure member (20) together with edge regions getting to a stop position (fig. 8), wherein from the end faces of the two edge regions one (26) is positioned on the inside and one (25) is on the outside of the can body, forming a closing seam by laser welding (27) when two air free adjoining seam contact surfaces are at a stop position against each other (fig. 8). The can jacket is inserted into an external mold (47) Hauser does not expressly disclose that the can jacket is produced from a flat material. However, the patent to Morris teaches that it is old and well known to produce a can jacket from a flat material (20) and the flat material is joined together by welding (40, 41, and fig. 1) to form the can jacket. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to produce the can jacket of Hauser by joining a longitudinal edges of a flat material together, as taught by Morris, since such can jacket making process is old and well known in the can making art.

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Note that claims 6 and 8-10 have not been rejected over prior art. However, in view of the issues under 35 USC 112 rejections as set forth above, the allowability of the claims can not be determined at this time.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art listed on the attached PTO 892 are cited to show relevant can body making process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JIMMY T. NGUYEN whose telephone number is (571)272-4520. The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm with alternating Fri. 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on (571) 272- 4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTNguyen  
January 21, 2009

/Jimmy T Nguyen/  
Primary Examiner, Art Unit 3725